



9111-14

## **DEPARTMENT OF HOMELAND SECURITY**

### **U.S. Customs and Border Protection**

#### **Announcement of Trusted Trader Program Test**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This document announces that U.S. Customs and Border Protection (CBP), in collaboration with the U.S. Consumer Product Safety Commission (CPSC) and the U.S. Food and Drug Administration (FDA), will begin the testing of the Trusted Trader program – a new program that will streamline the process through which importers can establish to CBP that they strive to secure their supply chains and strengthen their internal controls for compliance with the existing laws and regulations administered or enforced by CBP. The goals of the Trusted Trader program will be to: achieve integrated U.S. government collaborations that result in enhanced efficiencies leading to a reduction in government-wide resource expenditures; enhance information sharing between government agencies; lower the administrative cost of participants by streamlining the application and validation process; and increase the efficiencies in the existing trade programs. The Trusted Trader program will strengthen security, identify low-risk trade entities, and increase overall efficiency of trade, by segmenting risk and processing by account. This test of the Trusted Trader program aims to move toward a whole of government approach to supply chain security and trade compliance by strengthening government collaboration between CBP and FDA and between CBP and

CPSC. CBP seeks to encourage entities through incentives not currently available to members participating in both Customs-Trade Partnership Against Terrorism (C-TPAT) and Importer Self-Assessment (ISA) to secure their supply chains and strengthen their internal controls for compliance with the existing laws and regulations administered or enforced by CBP.

**DATES:** Applications for participation in the test may be submitted beginning [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. The selection of initial test participants will begin no later than [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Selected applicants will be notified individually of their participation date.

**ADDRESSES:** To submit comments concerning this test program: send an email to [TrustedTrader@cbp.dhs.gov](mailto:TrustedTrader@cbp.dhs.gov). In the subject line of an email, please use, “Comment on Trusted Trader Program Test.”

To apply to participate, send an email to [TrustedTrader@cbp.dhs.gov](mailto:TrustedTrader@cbp.dhs.gov). In the subject line of an email, please use, “Trusted Trader Program Test Application.” The email must include: the name and point of contact information of an individual (including the direct dial phone number and email address) who is employed by the business interested in participating in the test; and the business’ importer of record (IOR) number(s).

**FOR FURTHER INFORMATION CONTACT:** Michael Maricich,  
Partnership Branch Chief of the Automotive and Aerospace CEE, Office of Field  
Operations, at (562) 366-5455; Valarie Neuhart, Cargo Conveyance Security, Office of

Field Operations, at (202) 344-2511; or Florence Constant-Gibson, Commercial Operations, Office of International Trade, at (202) 863-6537.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Currently, companies may participate in the Customs –Trade Partnership Against Terrorism (C-TPAT) program, which focuses on companies securing their supply chains, and the Importer Self-Assessment (ISA) program, which provides incentives to companies that can demonstrate to CBP that they have strong internal controls to comply with the laws and regulations administered or enforced by CBP. To participate in ISA, companies must participate in C-TPAT. Members of ISA may also participate in the Importer Self-Assessment-Product Safety Pilot (ISA-PS), which focuses on product safety and compliance with CBP and CPSC laws and regulations.

This document announces CBP’s plan to unify the C-TPAT and ISA programs under a new test program called the Trusted Trader program.

#### **I. Customs-Trade Partnership Against Terrorism Program**

The C-TPAT program is a voluntary government-business initiative to build cooperative relationships that strengthen and improve overall international supply chain and U.S. border security. CBP encourages participation by providing incentives to participants meeting or exceeding the program requirements. As a result, the program helps CBP achieve its twin goals of improving security while facilitating the flow of global trade. The Security and Accountability for Every Port Act (SAFE Port Act) of 2006 (see 6 U.S.C. 961 et seq.) codified C-TPAT and established procedures for the certification and validation of C-TPAT partners.

Businesses eligible to apply for C-TPAT membership include U.S. importers of record; U.S./Canada highway carriers; U.S./Mexico highway carriers; air, rail and sea carriers; licensed U.S. customs brokers; U.S. marine port authority/terminal operators; third party logistics providers; U.S. freight consolidators; ocean transportation intermediaries and non-vessel operating common carriers (NVOCCs); Mexican and Canadian manufacturers; and Mexican long-haul highway carriers. C-TPAT importers enjoy certain incentives based on their tier status within a three tier structure. Tier I incentives are afforded to those importer partners that have been certified; Tier II level to those that have been certified and validated; and Tier III incentives to those that have exceeded the program's requirements and exhibit best practices.

Upon satisfactory completion of the C-TPAT application and supply chain security profile, the applicant company is assigned a C-TPAT Supply Chain Security Specialist (SCSS) to review the submitted materials and to provide program guidance on an on-going basis.

The C-TPAT program will then have up to 90 days to certify the company into the program or to reject the application. If certified, the company will be validated within a year of certification.

C-TPAT seeks to safeguard the world's vibrant trade industry from terrorists, maintaining the economic health of the United States and its neighbors. The partnership develops and adopts measures that add security but do not have a chilling effect on trade.

C-TPAT affords its importer partners many incentives, including a reduced examination rate. While examination rates have increased significantly since 2001 on all cross border movements, C-TPAT import partners continue to be examined at a

considerably lower rate than non-C-TPAT partners. Other incentives afforded to importer partners by the C-TPAT program include:

(a) Access to the Free and Secure Trade (FAST) Lanes – Expedited border crossing privileges are granted to those C-TPAT highway carrier partners who are certified/validated. FAST lanes are dedicated lanes to C-TPAT partners at many Canada/Mexico land border ports of entry. C-TPAT highway carrier partners view the FAST lanes as a substantial benefit as the use of these lanes saves them considerable time in crossing the border. Moreover, since FAST highway carriers are transporting cargo from C-TPAT importers, these shipments are considered low risk and are therefore subject to lower examination rates;

(b) Exemption From Stratified Exams for importer partners – C-TPAT Tier III importer partners and C-TPAT Tier II importer partners that also participate in the ISA program are exempt from stratified exams;

(c) Front of the Line – C-TPAT shipments subject to examination receive “front of the line” treatment. To the extent possible and practicable, C-TPAT shipments are moved ahead of any non-C-TPAT shipments. This can translate into substantial monetary savings, since C-TPAT shipments will not have to wait as long in line for an examination;

(d) Business Resumption – In the event of a significant disruption/delay in CBP cargo processing operations, actions are taken to maintain communication and coordination with C-TPAT partners and foreign government stakeholders for business resumption; and

(e) Penalty mitigation offered for the late submission of data required under the Importer Security Filing requirements.

## **II. Importer Self-Assessment Program**

The ISA program is a joint government-business initiative designed to build cooperative relationships that strengthen trade compliance. ISA is based on the premise that companies with strong internal controls achieve the highest level of compliance with customs laws and regulations. On June 17, 2002, the former U.S. Customs Service (now U.S. Customs and Border Protection (CBP)) published in the **Federal Register** (67 FR 41298) a notice announcing the ISA program and describing the requirements for participation in and incentives under the program. The requirements for participation in the ISA program remain as described in the 2002 Notice, except that the program has since been expanded to accept Canadian as well as U.S. importers. See 77 FR 61012 (October 5, 2012). To apply for ISA, the applicant must provide the importer's name; unique importer number(s); a signed ISA Memorandum of Understanding (MOU); a completed ISA questionnaire along with support documentation; and a risk-based self-testing plan.

On October 5, 2012, CBP published in the **Federal Register** (77 FR 61012) a notice that expanded the ISA program by creating an expedited path to ISA membership for importers who successfully have undergone a CBP Focused Assessment (FA) audit and were deemed an acceptable risk to CBP. The FA to ISA transition opportunity allows these acceptable risk importers to transition into the ISA program without further CBP review within twelve (12) months from the date of the FA Report wherein Regulatory Audit, Office of International Trade, has determined the company represents

an acceptable risk to CBP. FA is a comprehensive audit process through which Regulatory Audit determines whether a company's import activities represent an acceptable risk to CBP. An assessment is performed of the company's organizational structure and its system of internal control over import activities, to ensure compliance with applicable customs laws and regulations. Importers seeking to transition into ISA through this opportunity must also meet the following ISA eligibility requirements: they must be a U.S. or Canadian resident importer; they must be C-TPAT partners or apply for C-TPAT membership and become certified; they must develop a risk-based self-testing plan; and they must agree to meet all of the ISA program requirements.

The ISA-PS is a joint initiative among CBP, CPSC and importers who commit to maintain a high level of product safety compliance and strive to prevent the importation of unsafe products. It is an expansion of the ISA program and is jointly administered by CBP and CPSC. The ISA-PS pilot was announced on October 29, 2008, in the **Federal Register** (73 FR 64356). The notice established the parties' intent to enter into a collaboration recognizing import safety compliance. Eligible ISA-PS pilot participants must be active ISA members and comply with all ISA requirements and obligations.

A joint CBP and CPSC working group currently is evaluating the ISA-PS pilot as described in the October 29, 2008 **Federal Register** notice (73 FR 64356) and is expected to convey recommendations in 2014. If based on CPSC review of the recommendations of the CBP/CPSC working group a decision is made to change or terminate the ISA-PS pilot, a notice will be published in the **Federal Register**.

### **III. Trusted Trader Program Test**

This document announces CBP's plan to unify the C-TPAT and ISA programs under a new test program called the Trusted Trader program. CBP's coordination with CPSC and FDA helps to achieve the goals of the Trusted Trader program which will be to: achieve integrated U.S. government collaborations that result in enhanced efficiencies leading to a reduction in government-wide resource expenditures; enhance information sharing between government agencies; lower the administrative cost of participants by streamlining the application and validation process; and increase the efficiencies in the existing trade programs. The Trusted Trader program will strengthen security, identify low-risk trade entities, and increase overall efficiency of trade, by segmenting risk and processing by account. Leveraging the Centers of Excellence and Expertise (Centers) to manage trusted trader accounts from an industry perspective will contribute to the overall effectiveness, bring a high level of industry product knowledge, and further refine account-based processing. It will address specific threats and enable risk based analysis. This test of the Trusted Trader program aims to move toward a whole of government approach to supply chain security and trade compliance by strengthening government collaboration between CBP and FDA and between CBP and CPSC. The Trusted Trader program, as envisioned, will align with Authorized Economic Operator programs which focus on a combined trade and security compliance model implemented by other countries around the world. CBP seeks to encourage companies, through additional incentives not currently available to C-TPAT and ISA members, to secure their supply chains and strengthen their internal controls for compliance with the existing laws and regulations administered or enforced by CBP. CBP notes that



companies still have the option to apply for, or continue participating exclusively in, C-TPAT. In addition, importers may continue to apply for ISA and the ISA-PS pilot programs.

Importers who meet the eligibility criteria of the Trusted Trader program test and wish to participate must submit an email as described below in this document. The Trusted Trader program application, which only provisionally selected test applicants will be required to complete, contains two parts: one part contains questions concerning supply chain security (C-TPAT related questions) and the second part contains questions concerning the company's trade compliance process, procedures and internal controls (ISA related questions) and product safety compliance (ISA-PS related questions) when applicable. Provisionally selected test applicants who are already C-TPAT members will not be required to complete the first part of the application. However, provisionally selected test applicants who are not current C-TPAT members will be required to complete the entire application.

Companies whose Trusted Trader program application is reviewed and approved by CBP to become a partner in the Trusted Trader program test will begin to receive the incentives currently provided to C-TPAT (depending on the particular C-TPAT Tier into which they are accepted) and ISA members, as well as additional incentives.

If the applicant concurrently applies for the Product Safety portion of the Trusted Trader Program test, the additional application materials will be reviewed and approved jointly by CPSC and CBP and the successful applicant will be eligible to receive benefits from CPSC. Those benefits are listed in **Section III. A.** of this document.

### A. Trusted Trader Program Test Incentives

The incentives for participating in the Trusted Trader program test are listed below:

- The incentives currently provided to C-TPAT importers, as discussed in Section I of this document.
- The incentives currently provided under the ISA program, as listed in a notice published in the **Federal Register** (77 FR 61012) on October 5, 2012.
- Program participants will benefit from a reduced FDA targeting/examination risk score. The incentive will be predicated on the test participants' importation of FDA regulated goods, and the participants' agreement to allow CBP to share C-TPAT certification status with FDA.
- As part of a CBP penalty mitigation decision, test participants may receive a penalty offset upon request. If approved, penalty offsets may result in receiving credit towards their penalty liability as a result of implementing enhanced security and trade compliance measures.
- Trusted Trader program test participants who also participate in the Reconciliation Prototype (78 FR 27984), will be allowed to flag and unflag entries for reconciliation retroactively after the entry summary is filed up to 60 days prior to the date for which liquidation of the underlying entry summary has been set. This would include retroactive flagging for the following four reconcilable issues, or "flag types:" (1) value; (2)

classification (only if under protest or subject to a court case); (3) 9802, Harmonized Tariff Schedule of the United States (HTSUS); and (4) the post importation claims made pursuant to free trade agreements.

Currently, under the Reconciliation Prototype, test participants who file entries in the Automated Commercial System (ACS) or the Automated Commercial Environment (ACE) may “flag” the underlying entries at the time of filing via an Automated Broker Interface (ABI) indicator, which serves as the notice of intent to file a reconciliation. Reconciliation Prototype participants who file entries in ACS and find that a large majority of their entry summaries require flagging, may provide their notice of intent to file a reconciliation by filing a “blanket application” in lieu of entry-by-entry flags. The blanket application results in the automatic flagging of all entry summaries for a specified period. Under the current Reconciliation Prototype, the blanket application must be received by CBP not later than seven (7) working days prior to transmission of the first entry subject to the reconciliation. Importers participating in the Reconciliation Prototype and joining in this test of the Trusted Trader program, may file the notice of intent to file a reconciliation after filing the entry summary up to 60 days prior to the date for which liquidation of the underlying entry summary has been set. The “blanket application” option under this incentive is only available to importers participating in both tests and filing in ACS. CBP will publish a

separate **Federal Register** notice to announce this modification to the Reconciliation Prototype for Trusted Trader program test participants.

- CBP will reduce the number of Foreign Trade Zone (FTZ) on-site inspections.
- Drawback claimants will be exempt from on-site visits from Drawback Specialists.
- Full desk reviews, conducted pursuant to 19 CFR 191.61, will be limited to no more than one (1) per year for drawback claimants.
- CBP will exempt test participants from random Non-Intrusive Inspections (NIIs). Trusted Trader program test participants will have the opportunity to “opt-out” of this incentive entirely or identify the ports wherein the test participant wants this incentive applied. CBP reserves the right to conduct NIIs as appropriate for operational reasons.
- Where a Chemical Abstracts Service (CAS) number is required pursuant to 19 CFR 141.89 for a chemical compound classified in Chapters 27, 28, and 29 of the HTSUS, CBP will allow a quarterly submission of the CAS number, the use, and the description for the chemical compound in advance of the calendar year quarter. The description on the quarterly list must contain the CAS number, the use, and the description for the chemical compound. The applicable invoice will also need to contain a chemical compound description (in accordance with the requirements in 19 CFR 141.86). The chemical compound description found in the quarterly list and the description found on the invoice will need to be

identical for each chemical compound so that CBP can link the CAS number to the entered product.

- CBP will process Post-Entry Amendments (PEA) on unliquidated entries within a ninety (90)-day timeframe.
- In consultation with CBP, in the post-release environment, test participants may have the ability to choose an exam location, other than the port of arrival, that contains accommodations CBP considers amenable for a thorough exam. Examinations identified prior to release which have extenuating circumstances would be considered by CBP for exam at an alternate exam location within the port of arrival limits. Other than the exemptions created by this incentive, no other aspects of 19 CFR Part 151 are waived.
- If a test participant who is an importer of record files an entry in ACE or ACS for merchandise arriving by vessel in multiple containers and a portion but not all of the merchandise covered by that entry is selected for examination, the test participant will receive a release message and will be allowed to take possession of all merchandise except the merchandise subject to further examination. ACE and ACS entries filed in ABI will receive an electronic notification of the release. The test participant will be required to file the entry summary and pay the estimated duties on all merchandise covered by the entry within the period prescribed by law. Any changes necessary to the entry summary filing because of the results of the examination must be corrected by a Post-Summary

Correction (PSC) (if an ACE entry) or via a PEA if an ACS entry. This incentive will not be available on any entry where the decision about admissibility of a product resides with a government agency other than CBP. This incentive also will not be available for any shipments that arrive to the customs territory of the United States by conveyances other than vessel.

For a test participant who completes the Product Safety portion of the Trusted Trader application, if CPSC and CBP jointly approve, the following additional Product Safety incentives will be provided:

- CPSC will provide the participants with a product-specific CPSC point of contact who can assist in providing National Electronic Injury Surveillance System (NEISS) Product Codes for entry lines.
- CPSC will provide access to the participants with special training concerning product safety compliance, internal controls, and CPSC audit trails.
- CPSC will allow the participants the opportunity to apply for external participation coverage of multiple business units (multiple IOR numbers).
- CPSC will consider expansion of benefits to all products of approved participants if the entry line(s) contains all the applicable NEISS product code(s).
- CPSC will reduce product safety tests on goods imported by the participants.

- CPSC laboratories will grant priority “front of the line testing” to participants when product safety testing is conducted.
- CPSC may allow products to be destroyed by participants in lieu of requesting redelivery to CBP of the product.
- Additional benefits tailored to specific industry needs may later become available.

## **B. Test Participant Roles and Responsibilities**

Trusted Trader program test participants will be required to:

- Agree to comply with applicable CBP laws and regulations, except for the regulatory requirements explicitly waived in this document;
- Agree to comply with applicable CPSC and FDA laws and regulations;
- Complete a Trade Compliance Questionnaire;
- Submit a copy of the company’s customs policies and procedures;
- Make relevant importation records (i.e., those records and documents listed in the Appendix to 19 CFR Part 163, commonly known as the “(a)(1)(A) list”) available to substantiate compliance with trade laws for CBP to review;
- Perform annual risk assessments to identify risks that could impact compliance with CBP laws and regulations;
- Develop and execute an annual self-testing plan based on risk and implement corrective action in response to errors and internal control weaknesses disclosed by self-testing:

- Maintain results of testing for five (5) years and make test information available to CBP upon request;
- Develop, document, and implement a system of internal control designed to provide reasonable assurance of compliance with CBP laws and regulations:
  - Make appropriate adjustments to internal controls; and
  - Maintain an audit trail from financial records to CBP declarations, or an alternate system that ensures accurate values are reported to CBP;
- Make appropriate prior disclosures, PEAs, and/or PSCs;
- Notify the Trade Compliance Branch, Office of Field Operations, [TrustedTrader@cbp.dhs.gov](mailto:TrustedTrader@cbp.dhs.gov) of major changes to the company's corporate structure through reorganization, merger, acquisition, etc. Such notification must be made prior to or upon the affected date of the change by way of formal correspondence in the C-TPAT portal system;
- Notify the CBP SCSS of any suspicious activities, anomalies, and/or security breaches that affect the test participant's supply chain;
- Notify its SCSS and National Account Manager (NAM) prior to or immediately of any major changes that may affect the partner's security to include change in ownership of the company or sourcing from a new country;



- Submit an Annual Notification Letter (ANL) and an Annual Security Profile Review to CBP. Once accepted and established in the Trusted Trader program test, the importer may submit an ANL and an Annual Security Profile Review to CBP simultaneously. If a trusted partner's C-TPAT certification date is different than the date the partner submits its ISA ANL (i.e. the importer joined the Trusted Trader program test as a C-TPAT member), the trusted partner may synchronize these dates if it chooses to do so by sending an email requesting such to [TPPB-ISA@dhs.gov](mailto:TPPB-ISA@dhs.gov). The Annual Security Profile Review submission will remain unchanged, requiring the member to update the member's security profile. However, the ANL will be streamlined and will require a summary of the following:
  - Organizational changes (e.g., mergers, acquisitions, divestures) and/or additions/deletions of importer of record numbers from the Trusted Trader program test participants;
  - Personnel changes that could have an effect on the department responsible for import compliance;
  - Changes in import activity (e.g., changes in the types of commodities imported, countries of sourcing/manufacturing, special trade programs being claimed, and brokers utilized);
  - Changes to internal control policies and procedures;
  - Risk assessment and self-testing results to include action taken to correct deficiencies; and

- A summary of any PEAs, PSCs, and prior disclosures made to CBP.
- Provide CBP with the name and contact information for the company's Compliance Officer;
- Commit to working with business partners and CBP to maintain the C-TPAT supply chain security criteria as outlined in the C-TPAT Importer Security Criteria found on the CBP website at:  
[http://www.cbp.gov/sites/default/files/documents/importer\\_security\\_pr  
ofile\\_overview\\_3.pdf](http://www.cbp.gov/sites/default/files/documents/importer_security_pr<br/>ofile_overview_3.pdf);
- Provide complete and accurate company information in response to C-TPAT and ISA inquiries and respond to these inquiries in a timely manner;
- Comply with C-TPAT program requirements to ensure integrity at each stage of the test participant's supply chain;
- Cooperate with the C-TPAT validation and re-validation processes including assisting the CBP SCSS in planning for and conducting validations and re-validations to include site visits at domestic and foreign locations (if applicable);
- Maintain security integrity throughout the supply chain, conducting periodic self-assessments in line with the changing risks and complexity of international business and trade;
- Cooperate with CBP, domestic and foreign port authorities, foreign customs administrations and others in the trade community, in

advancing the goals of C-TPAT and the Container Security Initiative (CSI);

- Create and provide CBP with a C-TPAT supply chain security profile, which identifies how the importer of record (IOR) will meet, maintain, and enhance internal policy to meet the C-TPAT importer security criteria; and
- Undergo a trade compliance review meeting, if deemed necessary by CBP, to ensure that the test participant is maintaining and updating trade compliance procedures and meeting the program requirements.
- If the applicant concurrently applies for the Product Safety portion of the Trusted Trader program test, Trusted Trader program test participants will also be required to:
  - Agree to comply with all laws and regulations administered by CPSC;
  - Complete a Product Safety questionnaire;
  - Maintain an internal control system that ensures the integrity of product safety;
  - Include the Product Safety point of contact information in the Annual Notification Letter (ANL) submitted to CBP;
- Participants importing FDA regulated goods agree to allow CBP to share participant C-TPAT certification status with FDA in order to receive FDA incentives.

### **C. Eligibility Requirements for Test Participants**

To be eligible to apply for the Trusted Trader program test, the applicant must meet the following criteria:

- Be an active U.S. importer or Non-Resident Canadian Importer who meets the requirements set forth in 19 CFR Part 141, including in particular, sections 141.17 and 141.18 (19 CFR 141.17 -141.18);
- Have written policies and procedures pertaining to its import process;
- Have a business office staffed in the United States or Canada;
- Have an active Importer of Record (IOR) number or a CBP-assigned number;
- Possess a valid continuous importation bond filed with CBP;
- Have at least two (2) years of importing history before the date that the application for the test program is submitted;
- Conduct an assessment of its supply chain based on C-TPAT's security criteria for importers including:
  - Business partner requirements;
  - Container security;
  - Physical security and access controls;
  - Personnel security;
  - Procedural security;
  - Security training and threat awareness; and
  - Information technology security;

- Implement and maintain security measures and supply chain security practices meeting security criteria established in the C-TPAT Importer Security Criteria document;
- Have a designated company officer who will be the primary cargo security officer responsible for C-TPAT;
- Create and provide CBP with a C-TPAT security profile, which identifies how the importer meets C-TPAT's Importer Security Criteria;
- Maintain books and records to establish compliance with the laws and regulations administered or enforced by CBP, including but not limited to, records sufficient to ascertain the correctness of any entry and to determine the duties, taxes and fees that may be due; and
- Applicants requesting consideration for the Product Safety potential incentives listed in **Section III. A.** of this document must concurrently complete the Product Safety portion of the Trusted Trader Program application.

At this time, the Trusted Trader program test is not open to current ISA partners.

#### **D. Completion of the Trusted Trader Program Test**

After the test period is over, if CBP decides to implement the Trusted Trader program, CBP will transition all existing ISA partners into the Trusted Trader program and will discontinue the ISA program. ISA partners will be given an opportunity to “opt-out” of being transitioned into the Trusted Trader program. CBP will announce any such changes in the **Federal Register**. If CBP decides to implement the Trusted Trader program after the test period, CPSC will consider continuation of the Product Safety

portion of the Trusted Trader program and any changes, including termination, will be announced in the **Federal Register**.

#### **E. Suspension of Certain CBP Regulations under the Test**

For purposes of this test, the following title 19 (19 CFR) regulations will be waived, to the extent described, for test participants:

- Section 141.89 (Additional information for certain classes of merchandise) will be waived only as to waive the requirement to submit the use and CAS number on each invoice for chemical compounds classified in Chapters 27, 28, and 29, HTSUS. Instead, CBP will allow a quarterly submission of the CAS number, the use, and the description for the chemical compound before the calendar year quarter. The description on the quarterly list must contain the CAS number, the use, and the description of the chemical compound. The applicable invoice also must contain a chemical compound description (in accordance with the requirements in 19 CFR 141.86). The chemical compound description found in the quarterly list and the description found on the invoice must be identical for each chemical compound so that CBP can link the CAS number to the entered product; and
- Section 151.6 (Place of examination) will be waived only insofar as allowing all non-security related examinations to occur at an exam location of the test participant's choosing. The chosen exam location must contain accommodations amenable to a thorough exam. The importer will still bear any expense involved in preparing the merchandise for CBP

examination and in closing the packages. In addition, all of the applicable sections of 19 CFR Part 151 will continue to apply.

#### **IV. Timeline for the Test**

This test is intended to last eighteen (18) months from [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Additionally, at the conclusion of the test, CBP will assess the effect that the Trusted Trader program has had on improving trade facilitation, lowering the cost of becoming a trusted partner, and ensuring importers' compliance with applicable laws and regulations. CBP plans to publish a notice when the test closes.

#### **V. Application Process**

Importers who meet the eligibility criteria of this test and wish to participate must submit an email to [TrustedTrader@cbp.dhs.gov](mailto:TrustedTrader@cbp.dhs.gov). In the subject line of the email, please use, "Trusted Trader Program Test Application." The email must include: the name and point of contact information of an individual (including the direct dial phone number and email address) who is employed by the business interested in participating in the test; and the business' importer of record (IOR) number(s).

Only businesses that meet the eligibility criteria provided in this document are invited to apply for participation.

#### **VI. Selection Criteria for Voluntary Participants**

CBP will limit the Trusted Trader program test to fewer than ten (10) participants. Test applicants must meet the eligibility criteria described in this document to participate in the test program.

Specifically, CBP is looking for test participants to include at least:

- One (1) or more importers currently participating in C-TPAT;
- One (1) or more importers not currently participating in any CBP partnership programs; and
- One (1) or two (2) participants who have imports monitored by CPSC and FDA.

## **VII. Processes for Selected Applicants**

CBP will send an email notification to all importers who requested to participate in the test informing them whether they have been provisionally selected to participate in the Trusted Trader program test. Provisionally selected test applicants who are current C-TPAT members will be provided the trade compliance portion of the application via an electronic document containing the trade compliance questions. They will be asked to complete the form electronically and to upload the form via the C-TPAT Security Link Portal (hereafter referred to as the “C-TPAT Portal”), or submit the form via email to [TrustedTrader@cbp.dhs.gov](mailto:TrustedTrader@cbp.dhs.gov).

Provisionally selected test applicants who are not current C-TPAT members will be provided a link to the C-TPAT Portal website to complete the security portion of the application and will be provided the trade compliance portion of the application via an electronic document containing the trade compliance questions. Provisionally selected test applicants will be asked to complete the security portion of the application electronically and upload the application via the C-TPAT Portal, or submit the application via email to: [TrustedTrader@cbp.dhs.gov](mailto:TrustedTrader@cbp.dhs.gov).



Once automation enhancements are made to the C-TPAT Portal, CBP will be able to accept simultaneously both the security and trade compliance portions of the application via the C-TPAT Portal.

CBP will begin to review the application within thirty (30) days of receipt. CBP will assign a NAM and an SCSS to the provisionally selected test applicant, if one is not already assigned, and CBP will verify the applicant's eligibility for participation in the program.

Provisionally selected test applicants, who have completed and submitted the required portions of the Trusted Trader program application, will be notified in writing whether they have been certified into or denied entry in the test program within ninety (90) days of submitting their application to CBP. The notification will indicate the date upon which the Trusted Trader program test partner will begin to receive the program incentives. Selected participants may have different starting dates.

During the validation process, a site visit will be conducted by CBP to the applicant's domestic headquarters and/or points of importation or deconsolidation of imports. The site visit will verify the company's security and trade compliance. This verification may last one (1) to two (2) business days. Foreign validations may also be conducted by multidisciplinary teams under certain circumstances.

Provisionally selected test applicants who are denied participation for the Trusted Trader program test will receive a written notification with a reason for the denial from CBP.

## **VIII. Legal Authority for General Testing**

Section 101.9(a) of the CBP regulations (19 CFR 101.9(a)) allows CBP to conduct a test program or procedure to evaluate the effectiveness of operational procedures regarding the processing of passengers, vessels, or merchandise by imposing requirements different from those specified in the CBP regulations but only to the extent that such different requirements do not affect the collection of the revenue, public health, safety, or law enforcement. This test is established pursuant to 19 CFR 101.9(a) to test the effectiveness of new operational procedures.

## **IX. Misconduct Under the Test**

A test participant may be subject to civil and criminal penalties, administrative sanctions, liquidated damages, and/or discontinuance from participation in this test for any of the following:

- Failure to follow the terms and conditions of this test;
- Failure to exercise reasonable care in the execution of participant security and trade compliance obligations;
- Failure to abide by applicable laws and regulations that have not been waived;
- Failure to deposit duties or fees in a timely manner; and
- Knowingly providing false or misleading information.

Suspension from or revocation of membership in C-TPAT will result in discontinuance from participation in the Trusted Trader program test.

If the Commissioner, or his designee, finds that there is a basis for discontinuance of test participation privileges, the test participant will be provided a written notification of the discontinuance. The test participant will be offered the opportunity to appeal the

decision in writing within ninety (90) calendar days of the date of the written notice. The appeal must be submitted to Trusted Trader Program Appeals, U.S. Customs and Border Protection, 1300 Pennsylvania Ave., NW, Suite 2.3D, Washington, DC 20229. The Secretary of the U.S. Department of Homeland Security, or his designee, will issue a decision in writing on the proposed action within one-hundred eighty (180) calendar days after receiving a timely-filed appeal from the test participant. If no timely appeal is received, the proposed notice becomes the final decision of the Agency as of the date that the appeal period expires.

In the case of a test participant knowingly providing false or misleading information to CBP during the validation process, the Commissioner, or his designee, will immediately suspend or expel the participant for an appropriate period of time. The test participant will be offered the opportunity to appeal the decision within thirty (30) calendar days of the date of the decision providing for immediate suspension or expulsion. The appeal must be submitted to Trusted Trader Program Appeals, U.S. Customs and Border Protection, 1300 Pennsylvania Ave., NW, Suite 2.3D, Washington, DC 20229. The immediate discontinuance will remain in effect during the appeal period.

The Secretary, or his designee, will issue a decision in writing on the discontinuance within one-hundred eighty (180) calendar days after receiving a timely

filed appeal from the test participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

Dated: June 11, 2014.

R. Gil Kerlikowske,

Commissioner,  
U.S. Customs and Border Protection.

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